



EXPRESS MAIL NO.: EM 061 023 393 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Palese et al.

Serial No.: 08.444,994

Group Art Unit: 1641

Filed: May 19, 1995

Examiner: J. Parkin

For: IDENTIFICATION AND USE OF
ANTIVIRAL COMPOUNDS THAT
INHIBIT INTERACTIONS OF
HOST CELL PROTEINS AND
VIRAL PROTEINS REQUIRED
FOR VIRAL REPLICATION

Attorney Docket No.: 6923-054

REQUEST FOR RECONSIDERATION OF
HOLDING OF ABANDONMENT, OR ALTERNATIVELY,
PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(b)

Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

Sir:

Applicants hereby respectfully petition to withdraw a holding of abandonment as set forth in a Notice of Abandonment mailed on February 15, 2000 in connection with the above-identified application ("the '994 application") because the application was not abandoned in fact. If after due consideration, Applicants' request is denied, then Applicants petition to revive the '994 application under 37 C.F.R. § 1.137(b) as having been unintentionally abandoned.

A copy of the Notice of Abandonment ("Notice") issued by United States Patent and Trademark Office on February 15, 2000 is attached hereto (Exhibit A). The Notice asserts that a timely response to the Office Action mailed on July 19, 1999 was not received.

On July 19, 1999, the United States Patent and Trademark Office mailed an Office Action in connection with the '994 application. The time for response was set to expire one (1) month from the date of the Office Action, i.e., on August 19, 1999, extendible under 37 C.F.R. § 1.136 (a)(1) to January 19, 2000 if accompanied by a petition for extension of time and the fees set in 37 C.F.R. § 1.17 (a). In response to this Office Action, Applicants' representatives timely filed the following documents in the United States Patent and Trademark Office on January 14, 2000:²

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- (1) a Provisional Election With Traverse under 37 C.F.R. § 1.143;
- (2) a Petition For Extension of Time Under 37 C.F.R. §1.136 (a), extending the time for response for five months to and including January 19, 2000, with provision for payment of the required fee by Deposit Account; and
- (3) a yellow return postcard ("Post-Card Receipt"), which on one side had an itemized list of the papers mailed on January 14, 2000, and Express Mail Label No. EM 061 023 892 US.

A copy of each of these documents is attached hereto as Exhibit B. Further, in support of this assertion, enclosed is a copy of the Post-Card Receipt which was returned to Applicants' representatives stamped received by the United States Patent and Trademark Office on January 14, 2000, evidencing receipt by the United States Patent and Trademark Office of the listed documents.

Also in support of this assertion, enclosed is a copy of our log of Express Mail Certification for January 14, 2000 (Exhibit C), indicating that the response was deposited with the United States Postal Service on that date, using the "Express Mail Post Office to Addressee" service under Express Mail Label No. EM 061 023 892 US.

Applicants respectfully contend that the Notice of Abandonment dated February 15, 2000 was issued in error and that the holding of abandonment should be withdrawn. As demonstrated by the above-mentioned facts and accompanying Exhibits, a complete response to the July 19, 1999 Office Action was timely filed within the six month statutory period for response. Clearly, there was no abandonment in fact.

In the event that the United States Patent and Trademark Office does not agree with Applicants' position, Applicants petition for revival of the application under 37 C.F.R. § 1.137(b). The facts establish, and it is hereby stated, that abandonment was unintentional. As explained herein, a response to the Office Action dated July 19, 1999 was timely filed (Exhibit B) and received by the United States Patent and Trademark Office (Exhibits B and C). Consequently, if Applicants' request for withdrawal of abandonment is denied, this alternative request for revival under 37 C.F.R. § 1.137(b) should be granted.

It is believed that there is no fee required for Applicants' request for reconsideration, since the request arises as a result of an error by the United States Patent and Trademark Office. However, if payment of a fee is required, please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. In the event this paper is treated as a Rule 137(b) petition, please

charge the required fee to the aforementioned deposit account. A copy of this sheet is enclosed for accounting purposes.

Respectfully submitted,

by Jacqueline Benn
Reg No. 43,492

Date February 29, 2000

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